

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

SANITARY BOARD OF THE CITY
OF CHARLESTON, WEST VIRGINIA,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-03060

GINA MCCARTHY, et al.,

Defendants.

ORDER

Before the Court is Defendants United States Environmental Protection Agency and Gina McCarthy, Administrator's (collectively, "EPA") Motion to Hold Case in Abeyance or, in the Alternative, for an Extension of Time to Respond to Plaintiff's Motion for Judgment on the Pleadings. (ECF No. 9.)

On March 31, 2016, the Sanitary Board of the City of Charleston, West Virginia ("the Sanitary Board"), the Plaintiff in this matter, filed a two-count Complaint charging the EPA with failing to timely approve West Virginia's submission of a site-specific water quality standard as mandated by the Clean Water Act. By Answer filed June 3, 2016, the EPA admitted that it has not taken final agency action on the water quality standard. (ECF No. 5 at ¶ 38.) The Sanitary Board filed a Motion for Judgment on the Pleadings on June 7, 2016. (ECF No. 6.) On June 15, 2016, the EPA moved the Court to hold the case in abeyance for a 45-day period while it completes its review of the proposed water quality standard and takes final action consistent with Section


303(c)(3) of the Clean Water Act. Alternatively, should its request for an abeyance be denied, the EPA moves for a 14-day extension of the deadline to file its response to the Sanitary Board's Motion for Judgment on the Pleadings. The Sanitary Board opposes the request for an abeyance, arguing that the EPA has been dilatory in fulfilling its duties and that further delay will only exacerbate matters.

The EPA's motion is **GRANTED IN PART** and **DENIED IN PART**. (ECF No. 9.) The Court **DECLINES** to hold the case in abeyance, but is hopeful that a short extension of time will permit the EPA to take final action on the matter at the heart of this dispute. It therefore **GRANTS** a 45-day extension of the EPA's deadline to file a response to the Sanitary Board's Motion for Judgment on the Pleadings. The EPA's response must be filed by **July 30, 2016**.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: June 24, 2016



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE